

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

THE WORNICK COMPANY,	)	CIVIL ACTION NO. 1:11-CV-391 SJD
	)	
Plaintiff,	)	
	)	CHIEF JUDGE SUSAN J. DLOTT
V.	)	
	)	
HOUSTON CASUALTY COMPANY,	)	
	)	
Defendant.	)	

**DECLARATION OF MICHAEL HYCHE  
IN SUPPORT OF THE WORNICK COMPANY'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT AGAINST HOUSTON CASUALTY COMPANY**

I, Michael Hyche, declare as follows:

1. I am the Vice President of Operations at The Wornick Company ("Wornick").
  2. I have worked at Wornick since 1997.
  3. I have worked in all aspects of Wornick's operations, including running the McAllen, Texas Assembly operation for ten years prior to consolidation. I have served in numerous roles including Vice President of Business Development for Wornick's Military business. My current efforts focus on, among others, quality assurance in all of Wornick's facilities.
  4. I have served on the Board of the Research & Development Association, and I have a degree in microbiology from the University of Texas at Austin.
- Salmonella Contamination***
5. As a result of my education and my work experience in the food industry and quality control, I am familiar with the nature of salmonella.

6. Salmonella contamination is not uniform by nature. Accordingly, a negative test for salmonella of a representative sample of a product does not prove the absence of salmonella in the product as a whole.

7. For this reason, a significant difference exists between a “salmonella negative” product and a “salmonella free” product.

***The Testing Performed On The Dairy Shakes***

8. The Government specification for Dairy Shakes requires Trans-Packers to perform microbiological testing (including salmonella testing) on five pouches of Dairy Shakes in a lot, regardless of the lot size.

9. A lot of Dairy Shakes can contain up to approximately 60,000 pouches of Dairy Shakes.

10. Because of the non-uniform nature of salmonella, a salmonella negative test of a representative sample of Dairy Shake pouches does not indicate that the lot of Dairy Shakes is salmonella free.

11. The Dairy Shakes that Wornick received were not tested after their receipt from Trans-Packers.

12. After Wornick retrieved the MREs from the Government, the Dairy Shakes were not tested for salmonella.

***Documents***

13. Wornick has received and maintained in the ordinary course of its business a number of documents pertinent to this litigation.

14. HCC sold Wornick “Malicious Product Tampering / Accidental Product Contamination Insurance” Policy Number H708-80163 (the “Policy”), a true copy of which was attached as Exhibit A to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

15. On June 23, 2009, Plainview announced a recall, a true copy of which was attached as Exhibit B to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

16. Franklin issued a recall notice on June 25, 2009, a true copy of which was attached as Exhibit C to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

17. On June 26, 2009, Trans-Packers issued a notice of product recall, a true copy of which was attached as Exhibit D to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

18. On June 26, 2009, the Government, through the Defense Logistics Agency (“DLA”), Defense Supply Center Philadelphia (“DSCP”), issued “ALFOODACT 130-2009 Do Not Consume,” a true copy of which was attached as Exhibit E to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

19. On July 1, 2009, DSCP issued “ALFOODACT 131-2009 - Update to and Expansion of ALFOODACT 130-2009,” a true copy of which was attached as Exhibit F to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

20. On or about July 21, 2009, the Government – specifically, the DLA/DSCP – wrote a letter to Wornick, a true copy of which was attached as Exhibit G to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

21. On August 12, 2009, the Government released ALFOODACT 139-2009, a true copy of which was attached as Exhibit H to Wornick’s Statement of Proposed Undisputed Facts [D.E. 22-1].

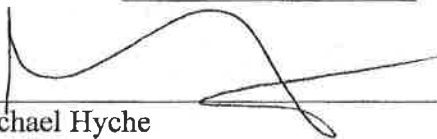
22. On or about September 30, 2009, the DLA published an article entitled "Operational Rations, Dairyshake Powder, Recall Information Page," a true copy of which was attached as Exhibit I to Wornick's Statement of Proposed Undisputed Facts [D.E. 22-1].

23. The Government wrote a letter to Wornick on September 2, 2009, a true copy of which was attached as Exhibit J to Wornick's Statement of Proposed Undisputed Facts [D.E. 22-1].

24. A copy of the Government contract provision requiring that the MREs be free from defects was set forth in an e-mail and attached as Exhibit AA to Wornick's Statement of Proposed Undisputed Facts [D.E. 22-1].


Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9-Nov-2012

  
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Michael Hyche



TERESA A. WILLIAMS  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
April 30, 2017  
Recorded in  
Butler County

  
11/9/12